

Calendar No. 425

103D CONGRESS
2D SESSION

S. 1357

[Report No. 103-260]

A BILL

To reaffirm and clarify the Federal relationships of the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians as distinct federally recognized Indian tribes, and for other purposes.

May 16, 1994

Reported without amendment

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IN THE SENATE OF THE UNITED STATES

AUGUST 4 (legislative day, JUNE 30), 1993

Mr. LEVIN (for himself and Mr. RIEGLE) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

MAY 16, 1994

Reported by Mr. INOUE, without amendment

A BILL

To reaffirm and clarify the Federal relationships of the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians as distinct federally recognized Indian tribes, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Little Traverse Bay
3 Bands of Odawa Indians and the Little River Band of
4 Ottawa Indians Act”.

5 **SEC. 2. FINDINGS.**

6 Congress finds the following:

7 (1) The Little Traverse Bay Bands of Odawa
8 Indians and the Little River Band of Ottawa Indi-
9 ans are descendants of, and political successors to,
10 signatories of the 1836 Treaty of Washington and
11 the 1855 Treaty of Detroit.

12 (2) The Grand Traverse Band of Ottawa and
13 Chippewa Indians, the Sault Ste. Marie Tribe of
14 Chippewa Indians, and the Bay Mills Band of Chip-
15 pewa Indians, whose members are also descendants
16 of the signatories to the 1836 Treaty of Washington
17 and the 1855 Treaty of Detroit, have been recog-
18 nized by the Federal Government as distinct Indian
19 tribes.

20 (3) The Little Traverse Bay Bands of Odawa
21 Indians consists of at least 1,000 eligible members
22 who continue to reside close to their ancestral home-
23 land as recognized in the Little Traverse Reserva-
24 tion in the 1836 Treaty of Washington and 1855
25 Treaty of Detroit, which area is now known as
26 Emmet and Charlevoix Counties, Michigan.

1 (4) The Little River Band of Ottawa Indians
2 consists of at least 500 eligible members who con-
3 tinue to reside close to their ancestral homeland as
4 recognized in the Manistee Reservation in the 1836
5 Treaty of Washington and reservation in the 1855
6 Treaty of Detroit, which area is now known as
7 Manistee and Mason Counties, Michigan.

8 (5) The Bands filed for reorganization of their
9 existing tribal governments in 1935 under the Act of
10 June 18, 1934 (25 U.S.C. et seq.; commonly re-
11 ferred to as the “Indian Reorganization Act”). Fed-
12 eral agents who visited the Bands, including Com-
13 missioner of Indian Affairs, John Collier, attested to
14 the continued social and political existence of the
15 Bands and concluded that the Bands were eligible
16 for reorganization. Due to a lack of Federal appro-
17 priations to implement the provisions of such Act,
18 the Bands were denied the opportunity to reorga-
19 nize.

20 (6) In spite of such denial, the Bands continued
21 their political and social existence with viable tribal
22 governments. The Bands, along with other Michigan
23 Odawa/Ottawa groups, including the tribes described
24 in paragraph (2), formed the Northern Michigan Ot-
25 tawa Association in 1948. The Association subse-

1 quently pursued a successful land claim with the
2 Indian Claims Commission.

3 (7) Between 1948 and 1975, the Bands carried
4 out many of their governmental functions through
5 the Northern Michigan Ottawa Association, while re-
6 taining individual Band control over local decisions.

7 (8) In 1975, the Northern Michigan Ottawa As-
8 sociation petitioned under the Act of June 18, 1934
9 (25 U.S.C. 461 et seq.; commonly referred to as the
10 “Indian Reorganization Act”), to form a government
11 on behalf of the Bands. Again in spite of the Bands’
12 eligibility, the Bureau of Indian Affairs failed to act
13 on their request.

14 (9) The United States Government, the govern-
15 ment of the State of Michigan, and local govern-
16 ments have had continuous dealings with the recog-
17 nized political leaders of the Bands from 1836 to the
18 present.

19 **SEC. 3. DEFINITIONS.**

20 For purposes of this Act—

21 (1) the term “Bands” means the Little Tra-
22 verse Bay Bands of Odawa Indians and the Little
23 River Band of Ottawa Indians;

24 (2) the term “member” means those individuals
25 enrolled in the Bands pursuant to section 7; and

1 (3) the term “Secretary” means the Secretary
2 of the Interior.

3 **SEC. 4. FEDERAL RECOGNITION.**

4 (a) FEDERAL RECOGNITION.—Federal recognition of
5 the Little Traverse Bay Bands of Odawa Indians and the
6 Little River Band of Ottawa Indians is hereby reaffirmed.
7 All laws and regulations of the United States of general
8 application to Indians or nations, tribes, or bands of Indi-
9 ans, including the Act of June 18, 1934 (25 U.S.C. 461
10 et seq.; commonly referred to as the “Indian Reorganiza-
11 tion Act”), which are not inconsistent with any specific
12 provision of this Act shall be applicable to the Bands and
13 their members.

14 (b) FEDERAL SERVICES AND BENEFITS.—

15 (1) IN GENERAL.—The Bands and their mem-
16 bers shall be eligible for all services and benefits pro-
17 vided by the Federal Government to Indians because
18 of their status as federally recognized Indians, and
19 notwithstanding any other provision of law, such
20 services and benefits shall be provided after the date
21 of the enactment of this Act to the Bands and their
22 members without regard to the existence of a res-
23 ervation or the location of the residence of any mem-
24 ber on or near any Indian reservation.

25 (2) SERVICE AREAS.—

1 (A) LITTLE TRAVERSE BAY BANDS.—For
2 purposes of the delivery of Federal services to
3 the enrolled members of the Little Traverse
4 Bay Bands of Odawa Indians, the area of the
5 State of Michigan within 70 miles of the bound-
6 aries of the reservations for the Little Traverse
7 Bay Bands as set out in Article I, paragraphs
8 “third” and “fourth” of the Treaty of 1855, 11
9 Stat. 621, shall be deemed to be within or near
10 a reservation, notwithstanding the establish-
11 ment of a reservation for the tribe after the
12 date of the enactment of this Act. Services may
13 be provided to members outside the named
14 service area unless prohibited by law or pro-
15 gram regulations.

16 (B) LITTLE RIVER BAND.—For purposes
17 of the delivery of Federal services to enrolled
18 members of the Little River Band of Ottawa
19 Indians, the Counties of Manistee, Mason, Wex-
20 ford and Lake, in the State of Michigan, shall
21 be deemed to be within or near a reservation,
22 notwithstanding the establishment of a reserva-
23 tion for the tribe after the date of the enact-
24 ment of this Act. Services may be provided to

1 members outside the named Counties unless
2 prohibited by law or program regulations.

3 **SEC. 5. REAFFIRMATION OF RIGHTS.**

4 (a) IN GENERAL.—All rights and privileges of the
5 Bands, and their members thereof, which may have been
6 abrogated or diminished before the date of the enactment
7 of this Act are hereby reaffirmed.

8 (b) EXISTING RIGHTS OF TRIBE.—Nothing in this
9 Act shall be construed to diminish any right or privilege
10 of the Bands, or of their members, that existed prior to
11 the date of enactment of this Act. Except as otherwise
12 specifically provided in any other provision of this Act,
13 nothing in this Act shall be construed as altering or affect-
14 ing any legal or equitable claim the Bands might have to
15 enforce any right or privilege reserved by or granted to
16 the Bands which were wrongfully denied to or taken from
17 the Bands prior to the enactment of this Act.

18 **SEC. 6. TRANSFER OF LAND FOR THE BENEFIT OF THE**
19 **BANDS.**

20 (a) LITTLE TRAVERSE BAY BANDS.—The Secretary
21 shall acquire real property in Emmet and Charlevoix
22 Counties for the benefit of the Little Traverse Bay Bands.
23 The Secretary shall also accept any real property located
24 in those Counties for the benefit of the Little Traverse
25 Bay Bands if conveyed or otherwise transferred to the

1 Secretary, if at the time of such acceptance, there are no
2 adverse legal claims on such property including outstand-
3 ing liens, mortgages or taxes owed.

4 (b) LITTLE RIVER BAND.—The Secretary shall ac-
5 quire real property in Manistee and Mason Counties for
6 the benefit of the Little River Band. The Secretary shall
7 also accept any real property located in those Counties for
8 the benefit of the Little River Band if conveyed or other-
9 wise transferred to the Secretary, if at the time of such
10 acceptance, there are no adverse legal claims on such
11 property including outstanding liens, mortgages or taxes
12 owed.

13 (c) ADDITIONAL LANDS.—The Secretary may accept
14 any additional acreage in each of the Bands' service area
15 specified by section 4(b) of this Act pursuant to his au-
16 thority under the Act of June 18, 1934 (25 U.S.C. 461
17 et seq.; commonly referred to as the "Indian Reorganiza-
18 tion Act").

19 (d) RESERVATION.—Subject to the conditions im-
20 posed by this section, the land acquired by or transferred
21 to the Secretary under or pursuant to this section shall
22 be taken in the name of the United States in trust for
23 the Bands and shall be a part of the respective Bands'
24 reservation.

1 **SEC. 7. MEMBERSHIP.**

2 Not later than 18 months after the date of the enact-
3 ment of this Act, the Bands shall submit to the Secretary
4 membership rolls consisting of all individuals currently en-
5 rolled for membership in such Bands. The qualifications
6 for inclusion on the membership rolls of the Bands shall
7 be determined by the membership clauses in such Bands'
8 respective governing documents, in consultation with the
9 Secretary. Upon completion of the rolls, the Secretary
10 shall immediately publish notice of such in the Federal
11 Register. The Bands shall ensure that such rolls are main-
12 tained and kept current.

13 **SEC. 8. CONSTITUTION AND GOVERNING BODY.**

14 (a) CONSTITUTION.—

15 (1) ADOPTION.—Not later than 24 months
16 after the date of the enactment of this Act, the Sec-
17 retary shall conduct, by secret ballot, elections for
18 the purposes of adopting new constitutions for the
19 Bands. The elections shall be held according to the
20 procedures applicable to elections under section 16
21 of the Act of June 18, 1934 (25 U.S.C. 476; com-
22 monly referred to as the “Indian Reorganization
23 Act”).

24 (2) INTERIM GOVERNING DOCUMENTS.—Until
25 such time as new constitutions are adopted under
26 paragraph (1), the governing documents in effect on

1 the date of the enactment of this Act shall be the
2 interim governing documents for the Bands.

3 (b) OFFICIALS.—

4 (1) ELECTION.—Not later than 6 months after
5 the Bands adopt constitutions and bylaws pursuant
6 to subsection (a), the Bands shall conduct elections
7 by secret ballot for the purpose of electing officials
8 for the Bands as provided in the Bands' respective
9 governing constitutions. The elections shall be con-
10 ducted according to the procedures described in the
11 Bands' constitutions and bylaws.

12 (2) INTERIM GOVERNMENTS.—Until such time
13 as the Bands elect new officials pursuant to para-
14 graph (1), the Bands' governing bodies shall be
15 those governing bodies in place on the date of the
16 enactment of this Act, or any new governing bodies
17 selected under the election procedures specified in
18 the respective interim governing documents of the
19 Bands.